

# Exhibit 139

**From:** Thomas Zeleny  
**To:** Bill Harris; Greg Bych; Ray Palmucci; Richard Haas  
**Date:** Tue, Oct 2, 2007 1:48 PM  
**Subject:** RE: Please review 'SoledadMtLetter2'

A couple suggestions (attached). I changed the "declaration" of an emergency to a "designation," which I think is more in line with the intent of Muni Code section 22.3212. A "declaration" is more of a formal, legislative action like the bi-weekly Tijuana Sewage Emergency or the Affordable Housing Emergency.  
--TomZ

>>> Richard Haas 10/2/07 12:28:29 PM >>>

Please expedite your comments so Rob can handcarry this afternoon to the residents.

We should also add that this confirms Rob/Jamal's visit yesterday to the residents.

Rich

>>> "Afshin Oskoui" <[AOSkouei@SanDiego.gov](mailto:AOSkouei@SanDiego.gov)> 10/2/2007 10:29 AM >>>

I am out at the site w/ the consultant &nd we need to include language about cutting irrigation. He needs to go back to the office to look at some seismic maps and will forward the language and limits to rob for inclusion in the letter.

-----Original Message-----

From: "Richard Haas" [RHaas@sandiego.gov](mailto:RHaas@sandiego.gov)  
To: [RHawk@sandiego.gov](mailto:RHawk@sandiego.gov); [AOSkouei@sandiego.gov](mailto:AOSkouei@sandiego.gov); [JBatta@sandiego.gov](mailto:JBatta@sandiego.gov); [DJarrell@sandiego.gov](mailto:DJarrell@sandiego.gov)  
Sent: 10/2/07 9:49 AM  
Subject: Re: Please review 'SoledadMtLetter2'

We need a time line?

>>> David Jarrell 10/2/2007 9:23 AM >>>

My suggested revisions and comments (in track changes) are in the attached document. Pls let me know if you have any questions.

Thanks for quickly getting this together.  
Dave

>>> Rob Hawk 10/2/2007 8:45 AM >>>

Please review the attached document. Please , I'll send it out to the whole group for their comments and get it out today. Rob

[Message delivered by NotifyLink]

**CC:** Afshin Oskoui; David Jarrell; Jamal Batta; Rob Hawk

Dear Soledad Mountain Road Homeowner:

We have observed additional cracking in Soledad Mountain Road and Desert View Drive alley. ~~Due to our concern with the stability of the hillside and safety of residents~~ To assist us in assessing this situation, the City of San Diego has hired a geotechnical consultant to examine the subsurface conditions in the area where cracking has occurred. As a part of this effort, the City will be declaring an emergency in order to expedite any investigation and repair procedures deemed necessary for this effort. The declaration is for the purpose of streamlining the ~~construction~~ City's funding and contracting processes, and ~~is not~~ the result of any new ~~threat~~ threats to the safety of residents. Public safety is our primary priority and City ~~forces employees~~ will continue to be inspecting the area ~~frequently~~ regularly for conditions considered hazardous. We will be arranging a meetings within a few days with area residents to provide an updated on City plans and progress-to-date and to discuss the issues within a few days.

[D1]

We appreciate your patience and cooperation during our activities in the area to protect the utilities, and investigate and identify the cause of the problem. [D2] During this time, please contact Carol Drummond at our hotline (619) 533-3872 if you have any questions. If you notice any service leaks, please immediately call our utility hotline at (619) 515-3525.

# Exhibit 140



## THE CITY OF SAN DIEGO

October 2, 2007

Dear Soledad Mountain Road and Desert View Drive Residents:

Subject: Soledad Mountain

We have observed increased cracking in Soledad Mountain Road and Desert View Drive alley. To assist us in assessing this situation, the City of San Diego has hired a geotechnical consultant to examine the subsurface conditions in this area. The consultant will be working in the City's right-of-way adjacent to your homes. Work will consist of installing inclinometers to determine the amount and limits of earth movement, and drill rigs taking soil samples and boring holes.

Public safety is the City's primary concern and City employees will continue to inspect the area frequently. The City intends to designate this work as an emergency project, as provided for in the Municipal Code. This designation will streamline the City's funding and contracting processes to expedite the investigative and potential repair procedures that may be necessary.

We will be arranging a meeting within a few days with area residents to provide an update on City plans and progress-to-date and to discuss the issues. We appreciate your patience and cooperation as we protect the utilities and investigate and identify the cause of the problem. We strongly encourage you to discontinue or minimize landscape irrigation until further notice.

During this time, please contact Carol Drummond at our hotline (619) 533-3872 if you have any questions. If you notice any service leaks, please immediately call our utility hotline at (619) 515-3525.

Sincerely,

Robert Hawk  
Deputy City Engineer



**Field Engineering Division • Engineering and Capital Projects**

9485 Aero Drive • San Diego, CA 92123  
Tel (858) 627-3200 Fax (858) 495-7969

# Exhibit 141

## SOLEDAD MOUNTAIN ROAD LANDSLIDE

Town Hall Meeting transcription

October 3, 2007

MA: The more I can understand precisely the better for everybody okay so in other words let's not fudge and I'm not saying anybody is because this is very helpful, but what I'm concerned about is exactly who reported it and how you reported it to the City. It sounds like the City may have confirmed that, what's your name sir, Mike McCormick, okay, so Mr. McCormick, what you're telling me that someone from the City, Mr. Hawk, from the City told you that there were four water main breaks and now we seem ...

Man 1: Mr. Hawk, you know we told you our fire hydrant leaked for about four days, various people they would send out would stare at the water leaking and would also tell us, hey, it's been leaking up the street,

MA: Alright, so then what you're telling me is that you saw the water hydrant, fire hydrant, are you telling me you saw that leaking on Mt. Soledad as well?

Man 1: I saw the main water main when they were fixing, the water they had going up there, but I saw ...

MA: Whoa, whoa, whoa, you saw them fixing the water main on Mt. Soledad

Man 1: Yeh,

MA: When?

Last [unaudible, several people talking over each other]

MA: Okay, I'm hearing two weeks ago, is that right?

Several people: Approximately ... For months there'd been trucks there

MA: Okay, we're going to say within a month or two weeks ago

Several people: No, they've been there for months, it would leak, they'd come fix it, they

MA: Okay, hold on, hold on, hold on, okay. Seymour is telling us that he has seen trucks out there fixing water leaks on Mt. Soledad for months,

Several people: Yeah, months ...

MA: Back to July, okay. Ma'am, I'm sorry I don't know you're name. Could you tell me what's your name?

Maria

MA: Maria, okay what's your last name?

MA: B-i-s-c-u-s-o. May I ask one of the investigators to please take your yellow pad and circulate it with name, address, email ... turn it sideways on a horizon basis so we have everybody's name and address here so we can make sure we can get back to each other, okay. So tell me what you know.

Maria: I've seen them working on the street on Soledad Mountain.

MA: When you say you've seen them working on the street, who do you mean? City Workers?

Several people: City Workers

MA: And what were they doing when they were working, what was the activity you saw?

Several people: Digging holes

MA: Digging holes? Where were they digging in relation to where the earth moved?

Right there (in unison), where it fell right above there

Seymour: Well my main concern is what I saw, we took our dog for a walk on Saturday morning and I saw water hydrant on Desert View Drive was leaking bad, so much that the whole pavement was getting out of shape. I knocked on my friends/neighbors door and wife told them, have you contacted the City people to come out and fix this leak and she said yeah, they've been here but it's leaking again. And then it kept on leaking

MA: That as on Saturday morning?

Seymour: Saturday morning, yeah,

Man 2: It wasn't actually leaking on the surface, it was leaking underneath here

Seymour: Underneath here, yeah, underneath here

MA: Do we think, Seymour that what happened is that the earth had already started moving at that point and that was what we were seeing?

Man 2: I think the earth moved because there was water

MA: No, no, but what I'm saying is, is what we're saying that the water occurred on the top originally, there was water leakage then eventually that may have caused the earth to move which in turn caused more leaking from ... is that what we're thinking here?

Man 3: That's exactly what happened to the house at 5828, the back hill went down, the water poured in, man made at the top of the hill



Lady 1: and it undermined so it lifted [man 3 talking over lady 1], exactly the same as this evening.

Man 3: exactly what we say today

Lady 1: it undermined and lifted it up.

Lady 2: Sir ...

MA: I'm Mike and I'm not sir. Okay, go ahead

Lady 2: Okay Mike, we are at

Lady 1: They were at ..

Lady 2: We are at 5734, we just moved in, in the end of June and when we moved in the street in front of our house was flat and it since then it was literally just pushing up, we had called the City and in the past week

MA: when did you notice that it started lifting up?

Lady 2: probably August maybe

MA: In August

Lady 2: they had been coming out and within the last week, they came out on the 20<sup>th</sup> and graded because the whole street in front of our house was no longer safe to walk on, from my doorway to the street, it was like this.

MA: So I was

Lady 2: It was not safe so they graded the whole thing on the 20<sup>th</sup> and since then it has been changing daily and they have all told us it was the dirt coming up, we are the toe of the landslide, this is all the City

MA: Okay, let me ask you this. Okay, you are on Desert View

Lady 2: Yes,

MA: Okay, today I was at the toe, is that your house

Lady 2: That's my house

MA: That's your house

Lady 2: Yes,

MA: Right there, the really beauty ... the sort of silver color or gray color

Lady 2: With the green trim, yeah that's my house, with all the dirt.

MA: Yeah, yeah and it's right into your house

Lady 2: Yes,

MA: I am really sorry that happened, that's a bunch of crap, you know that. That is not right.

Man: The good news is it happened while she was taking the kids to school, so

MA: You know really, you know what, I don't know if any of you are religious but whatever religion you are, today, whatever the supreme being is, the supreme being was looking out over Mt. Soledad. Yes sir, in the back, yes sir.

My name is Peter Saberski, I'm a citizen of La Jolla, I'm not on the other side of the hill. I feel very badly what's happened to you but I must express my thoughts about this procedure. Mr. Aguirre is not the Mayor, he's not the deputy Mayor, he's not a council person. It seems to me that this is a group deposition and that you're giving your statement about things that might hurt you if you do that.

MA: Do this, come on up here, come here, come here. Thank you. No but I want you to come up and sit right here with us. Okay, well I appreciate you saying what you were saying. And thank you for having the courage for speaking out to say something that maybe others might not want to hear but I appreciate that.

Man in audience: Are you deposing us?

MA: No, but what I am doing, this is what I'm doing, okay. What I'm trying to do is I'm trying to understand what the truth is, okay, and there's lots of different people what have lots of different ways of operating. I've been an attorney for 30 years, okay. I'm sick and tired of all the game playing and that's something we're not going to do on this. We're not going to play games with this. This lady has a house that she just moved into in June. You folks, how long have you lived in your house?

Lady 3: 30 years

MA: 30 years, okay are you citizens of San Diego? Okay, okay, my job is to represent you too

Man: Good.

MA: I don't represent you in terms of your case, you'll have to get your own private lawyers and all that stuff, but I'm not going to be part of any kind of cover-up, I'm not going to be part of any kind of dishonesty, I want to found out what happened. I think we've made more progress here in the last 30 minutes that I have all days listening to all the experts from the City talk to me. Yes sir,

My name is Ben [inaudible]

MA: where's Tom, okay, and you live in lower, oh you're on Soledad, okay. Oh, you were 5695, did you get this letter last night?

Ben: I spoke with Rick Hawk

MA: Okay,

Ben: I've spoken with him extensively. I considered his opinion to be valuable and very respected

MA: And I do to

Ben: He has \_\_\_\_\_ me over the course of the last few times

MA: has he told you, did he say "get out"

Ben: He met with me at 7:00 pm last evening I had discussed that with him 48 hours prior. He indicated that they were able to get the emergency funding from the State, having met with the Mayor's office. They did not have adequate funds to take action in the correction as far as hiring and designing the project to a third party consultant until Monday.

MA: Hold on, hold on, Tom Zeleny, is that try?

Tom Z: I don't know about the funding but I know we did discuss they could expedite this.

MA: No, no, did they hire their consultant on Monday?

Tom Z: I don't know what day they hired them.

MA: Well does anybody, does any of the attorneys know? You don't know, what day they, what was the best knowledge you have.

Tom Z: I don't know when they hired them, I can talk with Ray.

MA: Hold on, hold on. What day was the expert hired?

Unknown male voice: I believe this past Monday

MA: this past Monday, so another words, so what happened was they brought in an outside consultant to look at it and that consultant started on Monday. That's what the City did.

Unknown male voice: I believe they started \_\_\_\_\_, their first day (inaudible)

MA: Is that true Tom or not?

Ben: they starting boring

Tom Z: They were supposed to be boring ...

MA: Okay, please ...

Ben: They started boring as of yesterday. They started on the opposite side of the street of where my residence is ...

MA: Opposite side as in the west side

Ben: the west side

MA: Okay

Ben: They could not start on my side, the east side, because \_\_\_\_\_ did not have the proper instrumentation to do the drilling on that side [inaudible] you will find a copy of the letter that was sent out and not mailed

MA: this one here, come on up and take a look

Ben: that's the one the chief engineer had sent out that the City was aware of the problem and was consulting with a third party to hire for further investigation.

[background discussion with unknown]

Ben: This is not that letter. There is another letter, I have a copy of it which I'll be happy to submit to you ...

MA: Okay

Ben: and that was send out by the

MA: Okay, let me just tell you this, I have a copy in my hand right here of a 1544 and this is , let me just tell you this right now, we're not going to play any games, okay. We're not going to play any games. We're going to find out what happened and then we'll let the chips

MA: No, no, no, this city attorney is not playing games.

Man 4: I'm saying the City is playing games. If you would have heard the news today,

MA: I don't care about the news

Seymour: and telling you how the mouth had shifted

MA: I know, I know, hold on, hold on.

Seymour: I'm telling you that the water is moving it

MA: Okay, hold on, hold on, hold on, I understand that, Seymour I got what you're saying. Let me just tell you what I have. I have a 1544 for, a 1544 is the mayor spending money on his own. I have a 1544 from Jamal Batta to a whole bunch of people saying you have been identified as a signatory to the attached 1544 needed to hire a geotechnical consultant to evaluate the subject road that is dated 10/1/07 at 12:04 p.m. and it says 1544 Soledad Mountain Road repair. Who's at 1544??

Seymour: Nobody

MA: Okay, they must have gotten it wrong, okay, and then its copied to Bill Mercer and Wendy Morrow, who are they? Purchasing, okay. And then this is what is says: The purpose of this consulting professional services agreement is to hire Helen Schmidt Geotechnical to investigate the cause of the cracks in Soledad Mountain Road. Their scope of work will include installation and monitoring of inclinometers to observe ground movement, soil testing and evaluation and preparation of construction drawings and specifications. The estimated fee for the consultant work is \$240,000. This particular company, Helen Schmidt Geotechnical, is very familiar with the ground conditions in the area and design requirements because they have previously conducted work on a similar project for the City along Desert View Drive. They have special expertise that result in substantial savings to the City, blah, blah, blah, blah, and that is from Engineering and Capital Projects and then I have a September 19, 2007, letter to Soledad Mountain Road Homeowner and it says: As you are aware there have been a series of water leaks on service connections from our main water line on your street.

Ben: That's the letter I'm referring to, that's signed by Jamal

MA: This is signed by Josene Ruhee (sp?), City Engineer, okay, let me repeat, Dear Soledad Mountain Homeowner: As you are aware there have been a series of water leaks on service connections from our main water line on your street. This resulted in unscheduled repair to water services and traffic disruption due to repair activities. The purpose of this letter is to inform you that the City of San Diego will be installing above-ground piping highline to provide water service to your property beginning September 20, 2007. At that time the water department will isolate and depressurize and turn off the existing underground water main. In addition the City will be hiring a geotechnical consultant to conduct a soil investigation in the area to determine the cause of the recent leaks.

Ben: And that was when

MA: Hold on, hold on, September 19, while most of this work will take place in the street and sidewalk, there will be some unavoidable inconvenience to local residence as equipment and personnel take up parking. The purpose of this effort is to minimize potential for damage to the water main and roadway from possible soil movement in the 5700 block of Soledad Mountain Road. Until the cause of the leaks has been identified and corrected. Okay, do you understand that? Okay, hold on, hold on, hold on. Yes,

Ben: As you can see in that letter dating back to September, there was a water leakage issue going on that persisted up to Saturday coming from that water hydrant on Desert View Drive.

MA: Peter Mesich, get him on the phone and have him come over right now. And Mark Mercer got a copy of this, okay. Did you get a copy of this?

Mercer: Yes sir.

Ben: We are both lucky to realize that

MA: This letter went to Councilman Scott Peters, Jaymie Bradford of the Director of Council Affairs for the Mayor's office, Rich Hawks of the Public Works, Mario Serra from the General Services and a bunch of other people including people in my office. Yes sir,

Lady: Mr. Aguirre, I think there is a neighbor on Desert View Drive, I heard last week sent a certified letter to the City.

MA: Okay,

Lady: She's not here tonight

MA: Okay, so here's the deal. There is a letter that was sent out on September 17, who got it? Did anybody else get it? You got it, do you have your copy? Did you keep it? Did you get yours? Okay, all right, let's go back to our format and see if we can get something done here. You think we've made some progress?

Audience: No

MA: You don't think we've made any progress? Seymour.

Seymour: The City today was trying to say this land movement

MA: No, no you guys, listen to me, okay let me explain something to you. We're here tonight to talk about what we learned tonight. We're not talking about something that happened outside of this, okay.

Seymour: We know what happened

MA: No, but hold on, Seymour, we're trying to piece it together, we've made some progress, let's see if we can keep going, okay, anything else?

Ben: As you can see, the issue of the water leakage dates back to September, last Saturday this fire hydrant on Desert View Drive,

MA: Okay, speak up nice and loud

Ben: the Fire hydrant on Desert View Drive last Saturday morning was leaking not from the top,

MA: Shishhhhhh, yeh, yeh, yeh, whoa, whoa,

Ben: top leakage is okay, but it was leaking from the very foundation, from the pipe going underneath it that means it was subterranean leakage going up way underneath the soil and the thing that really pisses me off is that nobody told us not to sleep in our house last night. My kids just drove by there just 15 minutes before the whole thing came down. I'm not really happy about this

MA: I don't blame you for not being happy about it and I just thank God that your kids or thank our supreme being or whoever it is that your kids weren't hurt

Ben: Thank you very much

MA: Okay who hasn't had a chance that wants to come up and talk next? Alright come on up here. Project nice and loud for us, okay. Tom is with me, a lawyer in my office. He's been doing a lot of water work for along time. Okay go ahead

I'd simply like to say this is not been a new problem with the City of San Diego and Desert View Drive. Over the past several years there've been many problems on this street. We've had multiple potholes and cracks in the street and when we call the City they come in with remedial little things. The last time I called the man said to me this street is a disaster. Sure the problems are underneath. We have heard word of mouth that there has been a leak from the Coral Reef Reservoir that was underground and that was what was causing it, coming across Soledad Mountain Road. All of these things we've been told when we complain and then they push us aside. They come and they put a little slurry on the street and say the problem is okay.

MA: Okay, I think that part you've established, okay anything else?

No

MA: come on up, come on up, alright well come up here so that they will get you on these microphones and we'll hear what you have to say

The progress of the repairs that they have been doing unfortunately there has been a tremendous lack of quality control, my particular residence when they went with the high water lines

MA: what's a high, Oh okay, the high water lines

They disconnected the lines from underground to prevent further damage in their opinion that was due to the leakage from the pipes so they ...

MA: So is that what you think happened is that they shut off the pipes in order to keep the water from leaking more and then they literally, is that what happened?

It was my understanding that they ran the water lines in the street to get them out from under ground because they were concerned about the movement.

MA: No, no, no,

Yes, yes, yes,

MA: Not about the movement, were they concerned about that there was leaking coming out of the pipes underground.

There were leaks and they went out and fixed them and they kept happening it's my understanding that's why they got them out from underneath the ground.

MA: What, because they couldn't stop the leaks?

Right, because they kept happening

MA: All right, so what they did then was they, they couldn't, what we're hearing we don't know this for sure but what we're hearing is that there was some kind of leakage and they thought if they shut off the pipes, now there's, we need to take what is essentially the information here and then we're going to go back and find out and ask people questions and on our website tomorrow we're going to start a Soledad Mountain Water Crisis portal and we'll put on there whatever we find, we're going to put on there, okay and I'm going to eventually issue an interim report on this, but go ahead

My question to you is the following: As a citizen do you consider if they had gone and so much as taking the expense of putting high water lines when I arrive at my residence at 6:00 pm after work or closer to 7:00 pm, it just so happened that one of the City officials, the engineer that wrote this letter happened to driving by, he stopped and introduced himself, him and I go to my residence, there was water gushing out of the water meter at my residence. The one that they had just 20 hours prior connected it which took an additional hour and fifteen minutes before a crew arrived to correct that. The negligence that I have seen in the quality of workmanship that the crew had performed in trying to maintain control of what they believed to be water leakage and/or breakage of the pipes and/or slippage of the earth has been ...

MA: I'm not sure, I'm not sure, let me just say this, I'm not sure that there's not other people that are responsible if as you've described, it may be the workers were doing everything they could but they were trying to deal with a situation that needed a more fundamental repair, that may be it as well. Let me just say this, what you are describing to me makes me really mad, okay, and I'm trying to really hold my temper right now because what I'm hearing makes me very, very upset that a city would allegedly engage in such behavior. That is not, that is not, the city owes everybody better than that and we're going to get to the bottom of that and that's way I say that the covering up, the spin, pushing it off on somebody else, now I think everyone here has to acknowledge that this is an area that everybody knew was a difficult area and if you don't acknowledge that then ... I'm asking you to be as truthful with me as I am being with you,

I didn't know that I just moved there

MA: Okay, you didn't know that, that's fine but the point is that this area has been a troubled area, but, but, but, if what you are describing to me, you know, I'm troubled by it and I'm going to find out what happened and then I'm going to let you know what I find out as fast as I can. Okay, anything else?



Ben: There had been multiple other occasions similar to that, there had been leakage of gas that had been reported which has taken time and they taken over 24 hours to respond and correct the problem. Now, in view of the circumstances when I reviewed the letters and the dates, if I receive a letter of the 19<sup>th</sup> of September to me that's an urgent matter that requires attention and immediate attention. There has never been correspondence sent to me, individually and/or via any means of delivery that reflected we don't have funds to start this project to investigate. If you want to take action on it as an individual citizen and a property owner, please do so until we get to you.

MA: Yeah, but if what you're saying is true there is nothing you could have done. Okay

Ben: I would have had the option of perhaps saving

MA: I agree, I understand what you are saying

Ben: And then the other problem is that as the others have indicated now I have the officials that we have spoken of, Mr. Hawk and also your city engineers have been very cooperative and attending. Their dismay to me has been they have reported it, they have requested it

MA: I know, that's why I'm saying I'm not sure

Ben: I'm not putting the blame on either one of those two gentlemen whatsoever

MA: I know and I commend you for that

Ben: and they have also requested the traffic for the trucks to be eliminated and controlled on that street. For three weeks as of yet that has not happened.

MA: Okay, but let's stay focused on the big picture, okay, anything else, I congratulate you on an excellent presentation. Everybody else ... come on up sir

Ben: Thank you

MA: Thank you

As far as the mains coming out, we had a similar situation. We had the water pouring out of our street for 4 days straight and the guys, the water people would come out, stare at it and just get in their trucks and leave and one of them quoted, this is a direct quote "well they don't want to pay overtime to fix this" the other quote was and this comes directly from the City water employee "Well, they're not going to fix this unless you get councilmen involved. Okay, and it got to the point that the street had raised about this far by the hydrant and down this alley pumping out clay and seeing it and it took them literally 4 days to do it and all it was a matter of two people instead of one coming out and turning the valve so just to piggyback on what he said, I think

Female: The only time this was addressed with us [inaudible] water in your yard.

MA: Yeah, that's what I'm doing, I know, thank you. Okay, go ahead sir, what's your name?

My name is Gary Roth, I'm community resident of La Jolla. I very sympathetic to what happened to your community today. I live in a community about a half mile away called Emerald Cove and many of you have heard about Alpha La Jolla and our 597 homeowners that have been in the paper, we were effected by the City's storm water system eroding the canyon. This is about a half a mile away from all of you.

MA: Why don't you tell me a little bit more about that

Gary: Well, the fact is that the canyon has eroded to the point where on one of the walls there is a danger of homes being effected in the situation like yours today for the upcoming rains. We've been in litigation with the City of San Diego for three years to fix this problem, okay. We're soon to go to trial on the 15<sup>th</sup> for damages and I heard through the grapevine that the City is going to appeal whatever ruling comes out

MA: Hey, who'd you hear that from because that

Gary: Let's say the old grapevine and by the way

MA: I'm the head of that grapevine so I don't know, that I can tell you right now is not, that part you don't have to worry about

Gary: to quote you, Mr. Aguirre, let's look at the big picture. We want the community of La Jolla to look at the big picture here because this whole area does have a problem and I want to make sure I think you're trying to do the right thing here, but so far the City of San Diego has not done the right thing for residences in La Jolla for this situation.

MA: Let me say this, you raise a good point but now we have made some progress in terms of coming up with a remedial plan, here's one of the problems we have ...

Gary: No, no, no, the residence in our community have taken action to fix phase I repairs on our own, we've had to focus on raising money so far, so far we've raised, better than \$3.5M to go ahead and litigate and fix our problem because the City won't do the right thing so here's what I ask you Mr. Aguirre is please for these citizens who have had these situation today which is catastrophic, I bet the City of San Diego to do the right thing

Applause form the audience

MA: Okay, are you done, okay, let me explain that in this particular case that there has been a ruling against the City

Gary: Correct, right

MA: okay and now and maybe I have a different understanding that you do, but my understanding and I'm going to find out tomorrow morning first thing, is my understanding is that we've agreed to go through the process and that we have contacted our insurance company and we're hoping that the insurance company will come forward to resolve the case but let me tell you one of the problems that the City has okay, because it's worse than what we're describing. A lot of developers developed and did it really irresponsibly. Just like right now, you know, they're developing these 500 unit places where there's no security for water, and the City allowed them to go forward and this is back in the days when you had you know the rubber stamp for the City Attorney and they allowed these projects to go forward that never should have gone forward. That situation right there when it first started it should have been much better planned out so what the developer did is that the developer developed it and then passed it on, the liability for the future, back to the City and I'm not saying the City wasn't at fault but what you had was a group of people that basically sold out everybody. The people that were running the City sold out the people that were moving in, they sold out the people that were the taxpayers. They just passed it on to the City and they moved on to higher office and that's what happened and I'm seeing this over and over and over again. Okay, the pension situation, same thing, the whole situation with water you know where we're 90% dependent on imported water because nobody has taken the time to really figure out how to fix this stuff. The water collection system, the whole way in which we have to clean up the water, the pipes for all of the piping for the City, all of that they allowed to just go down the tubes, down the tubes, down the tubes, so part of what we have to try and understand right now is that it's a matter of also gaining an awareness of what the people before, what they've left us with and then we can work our way out of it and that's what I'm committed to do. That's why I'm here right now, okay, and I'm hoping that I don't think he'll make it but I was hoping that our Councilman Faulconer, he was back doing some other things and he's on his way back but I will tell you, I appreciate that you said and I want you to do me a favor. I can't talk to you directly about your case because you're represented by a lawyer but do me a favor, let's, give me a chance until tomorrow and then you make inquiry with your lawyer and then why don't you and your lawyer call me together on the phone tomorrow afternoon and let's see if I can give you some kind of a report that would be more acceptable to you

Gary: That's fine and we'll do that but I just want you to know Mr. Aguirre that your name has been on all this litigation for the last two years ...

MA: I know it has

Gary: ... since you've been in office

MA: I understand that, I understand that.

Gary: Do the right thing for this community

MA: okay, clap, thank you, okay, okay, now. Okay, [back ground conversation]. I don't think that anybody falls into this category but NBC says that there's a person who is concerned, has come forward and said that they have a home for anyone who is in need of a home, if you call NBC news, you can do that at 578-0201 and that will be right up here in case anybody wants to take advantage of that. Okay, we've been here for an hour, yes

Female: I just showed up tonight because I have a home on the lower part of [inaudible] it's just me and it's a big home, with a lot of space. If anybody needs a place for tonight or later or whatever I have it

MA: Okay, well, see here later, now I hope you feel, you know, we've been here an hour, I'm willing to stay longer, I think we've made a lot of progress. Does anybody else, I think there's a lot here, a lot of meat. Do we have everyone's name and number and email address?

Female: They don't have email

MA: they don't have email, of course they don't have emails, okay. Do we have everyone's name and number where we can get a hold of you? Has everyone, where's that document, where's the sign-in sheet. Thanks, Doug has everybody signed it?

Female: I gave my home phone number ...

MA: No, no, no, don't give us your home phone, give us your cell phone ... How many people are going to have to stay in a home other than their home tonight. Aw, man that's not good.

Seymour: Can we get back to Desert View?

MA: Seymour we can get back to Desert View, oh, oh, can you get back there tonight? No you cannot, no, not tonight. Okay, hold on you guys, the question is:

Female: I've gotten yellow-tagged and we have not been able to get any information, we obviously know we can't go home tonight, but do they feel this situation is contained and do we have any information on the yellow tagged homes?

MA: Here's what I'm wondering. I don't know if we can get access to this facility tomorrow night but I'm trying to think, I'm just trying to think in my mind why we don't in the City have some kind of system set up right now

Female: they gave us a phone number for CAPS

MA: CAPS, what's that

Female: Crisis Access Phone Service, but there's nothing there either.

Female 2: I must have called 6 numbers from what I was given

MA: Does everyone have a place to go to tonight?

Seymour: All I know is that this morning when I got up I was a millionaire and tonight I'm sleeping in a strange bed, that's all I know.

Audience laughter

MA: Okay, yes sir

Man: Mr. Aguirre is there someone that I can go to with a simpler problem and get a response from. I've been [inaudible] I've been to the water department.

MA: Come see Mr. Zeleny, let me do this, let me do this, here's what we're going to try to do. Council Member Faulconer, hold on just one second, Let me see if I can get Council Member Faulconer because here's what I want to do, I will go out this far on the ledge and say this. Council Member Faulconer will address this problem and he will have something in place by tomorrow afternoon. He's a very dear friend of mine and I think I can speak for him and I will try and get a hold of his assistant right now, Steve McNally and I'm going to have you go out and speak to him about setting something up. Just give me one second, okay. Okay, Tom, see if you can get Mr. McNally, okay, okay, here, here's yes ma'am, yes, sir, yes ma'am.

Female: Will we be able to get back in our homes to get medicine or anything ...

MA: No, no, no. Are you in the lower

Female: I'm on Desert View

MA: Yeah, no. I'm just saying that I don't think that would be wise. Okay, here's what we're going to do, here's what we're going to do, look, I think we'll only need this one night but we've got the room again for tomorrow at 6:00 pm so we'll come back tomorrow, I'll have a lot more answers, we'll have the City Council person here, we'll get the thing organized so everybody knows you know what the deal is, but here's, here's what my thought is on your prescriptions and things like that, you just going to have to go to the drug store and get another prescription. I know that's going to be a really big inconvenience. Yes sir.

Man: The Red Cross, you contact them and they'll [inaudible] prescriptions for you if you ask

MA: oh, okay that's good, Red Cross, if you contact the Red Cross. Does anyone have the Red Cross number?

Female: The Red Cross is at La Jolla High School

MA: They're at La Jolla high, okay, perfect, okay yes ma'am

Female: I was going to say that tomorrow night there is a community planning association meeting here at 6:00 pm unless that's been changed.

MA: Abby gave me bad information, Abby ... well, you know what I have a feeling that they're not going to object, are they?

Female: They have a [inaudible] and a regular meeting.

MA: what time does your meeting start?

Female: I can check [inaudible]

MA: Here's what we're going to do. I don't care even if they're here, we'll just meet outside, whatever we have to do, we'll have the information here for you tomorrow night and you know what, .... You know what I'm thinking about, can you come up here for a second, young lady, yes, you, you, yes, yes. What is your name, young lady?

Female: Sherry Lightner

MA: why don't you come up here Sherry Lightner, okay, seize the moment. Now listen, can you not, can they, can these neighbors not come here and at least use the outside for tomorrow to get any updated information?

Sherry: Sure

MA: Sure they can

Sherry: They can use room 1 and I'll call Tim in the morning and tell him you want some time

MA: Okay fine, that's what we'll do tomorrow and hopefully during the day you'll already be contacted. Do we have every single person's number that is here?

Female: No

MA: okay hold on, get this back over here, we want all cell number so we can get ahold of you. Now here's what I want you to do, not every ... I'm sorry, yes

Female: I just checked room 1 and the small room is available tomorrow if you

MA: Okay good, tell him that we want it for tomorrow.

Female: We'll need you to confirm tomorrow with Diane who runs the office

MA: Okay, go confirm with Diane that we want it

Sherry: She's not here until tomorrow morning.

MA: Okay, take care of it Shaun, okay. Okay, so look this is kind of, you know this is a little bit out of my bailiwick but we're going to, we're going to do this, kind of sort of bridge me over to whoever is going to take over tomorrow which I think will be your council person. Yes ma'am, you yes.

Female: [inaudible]

MA: what's your name?

Female: [inaudible]

MA: What's your first name? Summer, good, Hi

Summer: Will there ever be the option of getting [inaudible]

MA: I think there will, I think that there will, but I just think we'll probably have all those answers tomorrow night, I think just give us to tomorrow night, okay, because I'm trying to get caught up here too, and I'm not quite sure why the City hasn't done more about this, but we'll find out tomorrow and we'll have our whole staff find out and we'll get on it.

Female: How do you know if you're red, green or whatever tag?

MA: I don't know, that's a good question

Female: Yeah, that is

Audience noise

MA: I would say anything that is below that area I would assume you're not going to get back in for a while. I'm not saying you won't be able to get back in like, I'm sure at some point you'll be able to get back in in the next few days to get your stuff and that sort of thing and ... but they may be able to do it, you know, much faster. We'll know a lot more tomorrow night at 6:00.

Female: you know, Mike it'll be nice though if you could go to sleep tonight and know if your house is still standing or not.

MA: Okay, well, I'm not going to sit here and tell you something that I can't guarantee you.

Female: I know but I think that should have been a primary thing.

MA: I agree

Female: I mean if you want to call a meeting, that would have been of substance to those of us who have this situation.

MA: Well, I'm sorry and I apologize and I wish I could answer that, okay, but I'm not going to make up an answer, yes

Seymour: Right now there is a lot of dirt in the street and I wondering if it make more problem with so many load on that street

MA: Well, they're going to remove it tomorrow. Listen, listen, starting tomorrow they're going to start removing that to take the load off.

Seymour: today I was there and it was a lot of City's ...

MA: Tomorrow they're going to start doing it tomorrow, the geologists told us they're going to start removing it tomorrow.

Seymour: I understand, my question is why didn't they start it today

MA: I don't know but that's what they're going to do tomorrow. Go ahead

Male: I'm just going to say, Mike, there are people who are staying at the corner of Palomino Circle and Soledad Mountain which is near my home that are letting people in who are green flagged and they [inaudible]

MA: So what do they do ... okay, stand up and tell us one more time. Listen up 'cause this is information, go ahead.

So there are people at the intersection of Palomino Circle and Soledad Mountain Road that have a list of people who are yellow, red and green flagged and I believe that this evening the green flagged people go back to their homes, their gas is off, their electricity is on and I believe he said the gas might be turned on tomorrow morning for those people who are in the green zone.

MA: Okay, now who is "he," who is your source on that?

Male: It was the I believe the police officer standing at the intersection talking to the guard who is going to be ...

MA: Okay, that's what we'll call and I appreciate that very, that's what we'll call raw information but I think there's no reason why you at least can't go back. Does everyone know where that intersection is? Okay, so at least you can go by there and you can get more information about that, okay. I will tell you this, I went today to where the toe is on this slide and so I was there and I would say I didn't see any houses except for the ones that are above on Soledad, obviously they're in a difficult position and not habitable but ...

Female: [inaudible]

MA: Well, your house is down, I wouldn't say your house is down

Audience talking but inaudible

Female: At the meeting tomorrow night, Mike, can you tell us what red means, and how many days ...

MA: Hopefully, I'm hoping that I can turn this whole thing over to somebody else tomorrow night 'cause as you can see I'm not that apted and able to answer these kinds of questions because I'm a lawyer and not a crisis manager, but anyway, I appreciate you all coming tonight, yes

Male: this is important, real important. I don't think it's prudent for the City to touch any of those properties for damage until the consultant for those property owners can actually take a look ...



MA: I know you said that to me, I don't know if I'm going to be able to control that or not. I ...

Male: It's incredibly important because we were purposefully kept out of it ...

MA: I know

Male: and it was unfortunate because we have to see that before the efforts to ...

MA: I don't disagree with you but I will tell you that, you know, if I can help you I will but I don't know if I will be able to. Okay, does anybody else have any more questions? Yes,

Female: I've been [inaudible] sitting all day, seeing this all day on the news and them telling us "you are to call, you are to call, but there didn't seem to be any water so I live up the street ...[inaudible] if you don't think they are already trying to cover their ass, they are.

Audience grumbling

MA: That's why, that's why ...

Female: This is just a little mini-Katrina and they're going to, you can't keep putting band-aides on stuff and crossing your fingers and hoping for it to go away. You obviously had clear idea that something was going wrong for a long time and they just covered it up and ...

MA: But can I just say one thing, though, one ... good, go

Female: People, get your heads out of your bums, stop worrying about the stupid things, gay marriage, crap like that, that's not important. You need to get money, you need federal money or whatever but you can't just let things in the City go and hope that it doesn't all fall apart, it's falling apart.

MA: I agree with you, but let me just say

Female: This is just the tip of the iceberg.

MA: Let me tell you one thing, I don't disagree with you but let me tell you one good thing. The media is here, the media will tell the truth, yes sir.

Audience: [inaudible] maybe ...

MA: I know that, but they also tell the truth, the truth will eventually win out, yes.

Seymour: You made statement about [inaudible] hopefully within the next two days, we will get a copy of the law or the ordinance ...

MA: Yeah, I'm going to do that, I think that's a great idea. Tom is going to do that.

Seymour: ... copy to the ...

MA: Tom is going, Tom, we're going to get that out tomorrow. I'm going to try and get that posted on my website if they'll turn it over to me.

Seymour: I would also like to have the facts open to public as to if those findings were only released on Monday ..

MA: I think you can see, no, no, you can see that's probably true.

Seymour: that's true, that I know for a fact, however when was that submitted before.

MA: Well, no I don't think that was submitted, it looks like it wasn't submitted until, what's today.

Tom: This date might change ...

MA: This hasn't even been submitted yet. So they went ahead and did it so, it's just been in the last few days. I think that you can assume, I think that we know that. Okay, thank you all very, very much, God bless all of you.

Audience garble afterward.

*(Transcribed by Kat Tenwolde on 10-8-07)*

Exhibit 142

**Stan Medina - Fwd: Soladad Mtn. Road Geotechnical INvestigation/outside consultants**

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**From:** Jim Fisher  
**To:** Stan Medina  
**Date:** 10/2/2007 2:18:52 PM  
**Subject:** Fwd: Soladad Mtn. Road Geotechnical INvestigation/outside consultants

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FYI

>>> Rob Hawk 10/2/2007 9:30:16 AM >>>

I recieved a call from Robert Day, of American Geotechnical who is reportedly working for the homeowner at 5725 Soledad Mountain Road. He has advised me that he is recommending to his client that the house not be occupied, and that the City "Red Tag" the building. I asked him to send me an email with his reccomendations, but that his client should take his advice. With respect to the City Red Tag (No entry allowed) procedure, we will eevaluate that during a site visit. Mr. Day is a competant geotechnical engineer with whom I have worked on several litigations and a few development projects.

He also requested permission to discuss the conditions with our consultants. I replied that all geotechnical data would be available once the data has been reviewed and recieved, but direct communication & speculation by, & with our consultants was not authorized, but I would be happy to send his written request forward.

Please advise. My thought at this point is to forward requests to Tom Zelany and Afshin.

Rob Hawk

Robert N. Hawk, PE  
Senior Engineering Geologist/Deputy City Engineer  
City of San Diego, Engineering and Capital Projects  
Field Engineering Division, MS 18  
9485 Aero Drive San Diego, CA 92123  
(858) 573-5011  
(858) 627-3297 (Fax)  
[rhawk@sandiego.gov](mailto:rhawk@sandiego.gov)

Working Together to Engineer a Better Tomorrow

Exhibit 143

**From:** Rob Hawk  
**To:** Barranon, William; Irannejad, Hamid; Zeleny, Thomas  
**Date:** October 02, 2007 3:15:48 PM  
**Subject:** soledad mtn road structure evaluations

Addendum: This project has been moved to the fast track due to circumstances. If you have questions, please call me at my office: 858-573-5011; my cell: 619-980-7167, my home: 619-287-4992, or my personal cell: 619-846-4992

Hi. This is an emergency project that involves a landslide on Soledad Mountain Road. Can you arrange to have a combo inspector, a structural engineer, and anyone else you think necessary meet me tomorrow at 5725 about 8AM? We need to walk through 4-6 of these structures, and then develop a plan if the conditions worsen. Two are particularly problematic.

Please respond as soon as you can. I apologize for the delay but we are working trying to come up with a stabilization.

Werner: you should meet us up there if you can to familiarize yourself with the issues. Rob Hawk

Robert N. Hawk, PE  
Senior Engineering Geologist/Deputy City Engineer  
City of San Diego, Engineering and Capital Projects  
Field Engineering Division, MS 18  
9485 Aero Drive San Diego, CA 92123  
(858) 573-5011  
(858) 627-3297 (Fax)  
[rhawk@sandiego.gov](mailto:rhawk@sandiego.gov)

Working Together to Engineer a Better Tomorrow

**CC:** Ahmadi, Afsaneh; Haas, Richard; Oskoui, Afshin; Ruhi, Hossein

# Exhibit 144



THE CITY OF SAN DIEGO

October 2, 2007

Residents of 5695, 5703, 5715 and 5725 Soledad Mountain Road

The geotechnical consultant retained by The City of San Diego regarding apparent soils instability in your neighborhood has advised us that you should not sleep in your homes effective immediately.

The City is sharing this information in advance of a comprehensive evaluation of the properties included in this notice that will take place on the morning of October 3, 2007. The City is not, at this time, making any specific recommendation regarding occupancy of these properties and will continue to keep all affected property owners informed as new information is acquired.

As you are aware, the City of San Diego has been investigating what appears to be natural instability of soils under City property near your homes. Since this issue came to our attention, the City has acted quickly and deliberately in order to safeguard all property in this area.

As part of our investigative effort, the City retained the services of a professional geotechnical firm to advise us on the rapidity of the movement of the soils and to recommend options that could either slow or stop this movement. That firm began its work on site today.

You are under no obligation to take the recommendation of the consultant. We will continue to keep you apprised of developments to this situation.

Sincerely

Robert N. Hawk, PE  
Senior Engineering Geologist/Deputy City Engineer  
City of San Diego, Engineering and Capital Projects  
Field Engineering Division, MS 18  
9485 Aero Drive San Diego, CA 92123  
(858) 573-5011  
(858) 627-3297 (Fax)



Exhibit 145

**From:** Rob Hawk  
**To:** AOskoui@sandiego.gov, DJarrell@sandiego.gov, JBatta@sandiego.gov, RHaas@sandiego.gov  
**Date:** Wed, Oct 3, 2007 6:15 AM  
**Subject:** Re: Soledad Mtn Rd - Letter to Residents

I delivered 3 of 4 warning letters to the occupants personally. The family at 5715 Soledad Mtn. Rd. wasn't home, but I left voicemail on their contact telephone with my cell phone number, and placed the letter on the mailbox.

An interesting article this morning:

<http://www.signonsandiego.com/uniontrib/20071003/13.html>

He got much of it right; messed up on the time periods we gave him.

I'll be in the field out there beginning at or before 8AM

Rob  
Robert N. Hawk, PE  
Senior Engineering Geologist/Deputy City Engineer  
City of San Diego, Engineering and Capital Projects  
Field Engineering Division, MS 18  
9485 Aero Drive San Diego, CA 92123  
(858) 573-5011  
(858) 627-3297 (Fax)  
rhawk@sandiego.gov

Working Together to Engineer a Better Tomorrow

>>> Afshin Oskoui 10/03/07 12:34 AM >>>  
Thanks Jamal and Rob. Afshin

>>> Jamal Batta 10/02/07 10:18 PM >>>  
FYI \_ I and Rob hand delivered the letter to the houses earlier this evening at 7:00p.m. ...jamal,

Respectfully,

Jamal Batta, PE, CFM  
Senior Civil Engineer  
Engineering and Capital Projects  
City of San Diego  
Phone: 619 533-3769  
Fax: 619 533-3071  
MS # 612  
JBATTA@SANDIEGO.GOV